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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/505,588	02/16/2000	Scott E. Klopfenstein	RCA89550	5988

24498 7590 11/03/2004

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EXAMINER

BELIVEAU, SCOTT E

ART UNIT	PAPER NUMBER
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2614

22

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/505,588

Applicant(s)

KLOPFENSTEIN, SCOTT E.

Examiner

Scott Beliveau

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 20-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20-23 is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Art Unit: 2614

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 16 July 2004 has been entered.

Information Disclosure Statement

2. The information disclosure statement (IDS) originally submitted on 01 March 2004 and refilled with the request for continued examination on 7 July 2004 was filed after the mailing date of the Final Rejection on 17 March 2003. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Response to Arguments

3. Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

Art Unit: 2614

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-6, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newberry et al. (US Pat No. 5,625,406) in view of Vaughan et al. (US Pat No. 5,926,207).

In consideration of claim 1, the Newberry et al. reference discloses a hybrid analog/digital "video decoder" [10] that is operable to "acquire" different "types of program guide" information for assembly into a unified "program guide" (Col 2, Lines 8-13). The apparatus is operable to "select a program guide type from a plurality of different types of program guide" (Col 4, Line 49 – Col 5, Line 8; Col 5, Lines 57-65), and "acquire a program guide" (Col 3, Lines 3-10, 29-43).

The reference suggests that a user is operable to designate a particular "program guide type" to be utilized in connection with obtaining program guide data (Col 4, Lines 49 – Col 5, Line 8), however, it does not explicitly disclose the usage of a "database" such that the

Art Unit: 2614

embodiment “associates a program guide of said selected program guide type with a broadcast channel by updating a database in said video decoder”. The Vaughan et al. reference discloses a multi-source [75] “video decoder” [10] wherein a user is operable to define individual channel operation parameters by “updating a database in said video decoder” [60] (Col 4, Line 13- Col 5, Line 15). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the Newberry et al. system so as to “associate a program guide of said selected program guide type with a broadcast channel by updating a database in said video decoder” for the purpose advantageously providing the user with the ability to assign unique operating characteristics so as to achieve a desired individual channel behavior in a manner that is independent from other channels (Vaughan et al.: Col 1, Line 43 – Col 2, Line 2). Taken in combination, a user would subsequently be enabled to designate a preferred program guide source for a given channel.

Claim 2 is rejected wherein Newberry et al. discloses that the “acquired program guide” may comprise digital video signals with “packetized program information” such as that associated with the MPEG-2 standard (Col 3, Lines 3-28). The “acquired program guide” may be further utilized for capturing “packetized program information” associated with a program selected via the guide as is understood in the art (Col 5, Lines 57-65).

Claim 3 is rejected wherein it is well known in the art for program guide information to comprise a “list of available programs and broadcast display times” (Newberry et al.: Col 1, Lines 28-39).

Art Unit: 2614

Claims 4, 5, and 14 are rejected wherein the Newberry et al. reference discloses that the system may utilize analog or digital “program guides types” (Col 3, Lines 44-48). The analog “program guide types” may be transmitted in a “vertical blanking interval” (Col 3, Lines 30-37) and the digital “program specific information” may be transmitted via the “PSI” tables or other manners supported by MPEG-2 standards such as the “ATSC PSIP format” (Col 3, Lines 3-28).

In consideration of claim 6, as aforementioned, the Newberry et al. reference discloses the particular usage of an MPEG-2 standard in conjunction with the distribution of program guide information. The MPEG-2 standard utilizes “program specific information” or PSI tables that include “program map information” (a) through the PMT tables and “program association information” (b) through the PAT table as further evidenced by the applicant’s admission of prior art.

In consideration of claim 10, Newberry et al. discloses that any or all of different input signals to the “video decoder” [10] may carry the same “program guide” information (Col 3, Lines 44-48). The reference teaches that the means for transmitting and extracting “program guides” are well understood in the art (Col 3, Lines 21-28, 31-37). Accordingly, while the reference does not explicitly recite the method of “automatically scanning received channels” to acquire “program guides”, it would have been obvious to one of ordinary skill in the art to employ such a method for the purposes locating any available “program guide” information which may be distributed in conjunction with the broadcast transmission of programming.

Claim 11 is rejected wherein the “data from at least one program guide” may be implicitly used to “update said acquired program guide of the selected program guide type”

Art Unit: 2614

so as to ensure that the user is presented with current program guide information for upcoming programming (Newberry et al.: Col 4, Lines 2-8).

7. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newberry et al. (US Pat No. 5,625,406), in view of Vaughan et al. (US Pat No. 5,926,207), and in further view of Schneidewend et al. (US Pat No. 6,249,320).

In consideration of claims 7-9, the Newberry et al. reference does not explicitly disclose that "said broadcast channel comprises a physical transmission channel", however the particular usage of a PTC in connection with digital program guides is notoriously well known in the art. The Schneidewend et al. reference teaches a method for displaying and processing an "acquired program guide" that "links" physical transmission channels (PTCs) with "sub-channels" and further allocates individual program channels with a both "first and second identification number" such that the "captured packetized program information" may be used to "acquire" sub-channel programming through an exemplary EPG illustrated in Figure 12 (Col 4, Lines 31-57; Col 6, Lines 21-49; Col 12, Lines 8-34). The Schneidewend et al. further teaches that the embodiment may be utilized in conjunction with non-MPEG compatible systems involving other types of encoded data streams and other method of conveying program specific information (Col 3, Lines 5-16). Accordingly, it would have been obvious to one of ordinary skill in the art to utilize the hierarchical EPG channel grouping teachings of the Schneidewend et al. reference in conjunction with the hybrid transmission techniques of the Newberry et al. embodiment for the purpose of enabling broadcasters to effectively convey channel information in view of the creation of sub-channels (Schneidewend et al.: Col 1, Lines 38-63).

Allowable Subject Matter

8. Claims 20-23 are allowed.

9. The following is an examiner's statement of reasons for allowance:

Applicant's arguments, see Appeal Brief, Paper No. 17, filed 12 May 2004, with respect to claims 20-23 have been fully considered and are persuasive.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objections made.

- The Cuccia (US Pat No. 6,337,719) reference discloses a method and apparatus for scanning channels in order to build an electronic program guide.
- The Tsinberg et al. (US Pat No. 6,212,680) reference discloses a multi-channel electronic guide acquisition system.
- The Wugofski (US Pat No. 6,003,041) discloses a method of managing multiple channel maps associated with multiple input devices and the EPG data derived from a plurality of sources.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 703-305-4907.


The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

Art Unit: 2614

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 703-305-4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SEB
October 26, 2004



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